

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 02-0449
Sales Tax
Calendar Years 1999, 2000, and 2001

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ISSUE(S)

I. Sales Tax – Sales Tax Collected on Sales of Autos

Authority: 45 IAC 2.2-6-8; 45 IAC 6-8.1-5-1 (a)

Taxpayer protests the sales tax on auto sales it did not make.

STATEMENT OF FACTS

Taxpayer was audited for calendar years 1999, 2000, and 2001. Upon audit it was discovered that the taxpayer failed to remit all of the sales tax collected. The audit was based upon the Bureau of Motor Vehicle's "Summary by Short Dealer" that lists the titles and the sales tax collected. Because the BMV sales tax did not agree with the sales tax remitted to the Indiana Department of Revenue, the difference was assessed in the audit. It is noted that a supplemental audit was prepared after the auditor presented his initial findings that limited the variance from year-end totals to specific transactions. The taxpayer's research also reduced the potential assessment.

At hearing, taxpayer states that forty vehicles had been stolen and the defendant admitted to the theft in the Marion Superior Court. A letter from the Marion County Prosecuting Attorney, dated October 6, 1999 states that the defendant was charged with "Theft". On July 9, 2001, the taxpayer filed an "Impact Statement & Restitution Information" indicating the total value of property stolen was approximately \$30,000.

Taxpayer states that he owes no more than \$400 in tax.

The hearing officer has reviewed the original and supplemental audits and found that the original was based upon a Dealer List obtained from the Bureau of Motor Vehicles. The supplemental audit addressed taxpayer's concerns and adjustments were made. Taxpayer, however, was unhappy with the supplemental audit results because he felt it should be "zero" dollars due and filed a protest with the Legal Division.

I. Sales Tax – Sales Tax Collected on Auto Sales

DISCUSSION

Taxpayer's audit was based upon information from the BMV's "Short Dealer" records. The audit assessed sales tax for items shown on the short dealer records that had no sales tax remitted to the Department of Revenue.

In reviewing the audit report and the file, it is noted that the assessment stems from BMV's "Short Dealer" records. Taxpayer had a supplemental audit prepared before he protested to the Legal Division. At hearing, the taxpayer states that 40 vehicles were stolen, four different dealers utilized his Dealer License Number and he was not responsible. Taxpayer feels he owes nothing or a maximum of \$400.

Taxpayer, however, has not provided proof that the assessment is in error. Taxpayer argues that he owes nothing because of the theft of vehicles. It is noted, that audit adjusted for the theft of vehicles at an estimated retail cost instead of the \$30,000 actually reported to the Marion county Prosecuting Attorney. Taxpayer provided nothing to aid in further reduction of the assessment.

FINDING

Taxpayer's protest is denied.